

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. BRETT CLIFTON ROUBIDEAUX, Defendant.	3:23-CR-30029-RAL ORDER ADOPTING REPORT AND RECOMMENDATION
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Defendant Brett Clifton Roubideaux was indicted for one count of Third-Degree Burglary in violation of 18 U.S.C. § 1153 and SDCL 22-32-8, Doc. 1. Roubideaux filed a motion, Doc. 29, seeking to suppress evidence seized from a search on January 26, 2023, and statements made to law enforcement on January 27, 2023, arguing that the seized evidence constitutes fruit of an illegal search, and that his statements were obtained in violation of his Fifth Amendment rights. Docs. 29.

Magistrate Judge Mark A. Moreno issued a Report and Recommendation for Disposition of Motion to Suppress recommending that Roubideaux's motion to suppress be granted, thereby excluding the jacket and backpack that law enforcement seized on January 26, 2023, and his January 27, 2023 statements to law enforcement from being introduced for all purposes at trial. Doc. 43. The parties had fourteen calendar days after service of the report and recommendation to file objections.

This Court reviews a report and recommendation under the statutory standards found in 28 U.S.C. § 636(b)(1), which provides in relevant part that “[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” “In the absence of an objection, the district court is not required ‘to give any more consideration to the magistrate’s report than the court considers appropriate.’” United States v. Murillo-Figueroa, 862 F. Supp. 2d 863, 866 (N.D. Iowa 2012) (quoting Thomas v. Arn, 474 U.S. 140, 150 (1985)). Neither Roubideaux nor the Government has objected to Judge Moreno’s report and recommendation, and the reasoning in the report and recommendation appears to be sound.

Therefore, it is

ORDERED that the Report and Recommendation for Disposition of Motion to Suppress, Doc. 43, is adopted. It is further

ORDERED that Roubideaux’s Motion to Suppress, Doc. 29, is granted and that the jacket and backpack that law enforcement seized on January 26, 2023, and his January 27, 2023 statements to law enforcement are excluded from being used for any purposes at trial.

DATED this 13th day of September, 2023.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE